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FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Feb 04, 2020

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

SEAN F. MCAVOY, CLERK

UNITED STATES OF AMERICA,

No. 4:19-CR-06063-SMJ-01
4:19-CR-06063-SMJ-02

Plaintiff,

v.

MONICA PESINA (01) and
NICHOLAS SEAN CARTER (02),

Defendants.

**ORDER GRANTING DEFENDANT
CARTER'S UNOPPOSED
MOTION TO CONTINUE TRIAL
DATE AND PRE-TRIAL
CONFERENCE AND RESET
DEADLINES**

**AMENDED¹ CASE
MANAGEMENT ORDER**

Before the Court, without oral argument, is Defendant Nicholas Sean Carter's (02) Unopposed Motion to Continue Trial Date and Pre-Trial Conference and Reset Deadlines, ECF No. 81. Defense counsel Nicholas Marchi requests a continuance of the pretrial motions filing deadline, the pretrial conference, and the trial, to allow more time to examine discovery, prepare any related motions, and prepare for trial. The Defendant has another matter in which he was indicted on January 22, 2020, cause number 20-CR-00005-SMJ. Defendant supports counsel's request for a trial continuance for the articulated reasons. ECF No. 82. Stephanie Van Marter,

¹ This Order amends and supersedes in part the Court's November 12, 2019 Case Management Order, ECF No. 41.

1 appearing on behalf of the Government, does not oppose the request. ECF No. 81
2 at 1. Co-Defendant Monica Pesina (01) supports the request. ECF No. 84.

3 The Indictment was filed on November 6, 2019. ECF No. 6. Defense counsel
4 Adam Pechtel appeared for Defendant Pesina (01) on November 8, 2019. ECF
5 No. 32. Defense counsel Colin Prince appeared for Defendant Carter (02) on
6 November 8, 2019. ECF No. 33. A Notice of Appearance was filed by Nicholas
7 Marchi for Defendant Carter (02) on November 24, 2019. ECF No. 49. This is
8 Defendant Carter's (02) second request for a continuance.

9 To ensure defense counsel is afforded adequate time to review discovery,
10 prepare any pretrial motions, conduct investigation, and prepare for trial, the Court
11 grants the motion, extends the pretrial motion deadline, and resets the currently
12 scheduled pretrial conference and trial dates. The Court finds that Defendant
13 Carter's (02) continuance request is knowing, intelligent, and voluntary, and that
14 the ends of justice served by granting a continuance outweigh the best interest of
15 the public and Defendant in a speedy trial. The delay resulting from Defendant
16 Carter's (02) motion is therefore excluded under the Speedy Trial Act.

17 Counsel are advised that all successive continuance requests will be closely
18 scrutinized for the necessity of more time to effectively prepare, taking into account
19 the exercise of due diligence.

1 Having considered the parties' proposed case schedule and deadlines, the
2 Court now enters the following Amended Case Management Order, which sets forth
3 the deadlines, hearings, and requirements the parties will observe in this matter. To
4 the extent this Order conflicts with any previously entered Orders in this matter, this
5 Order shall govern. All counsel are expected to carefully read and abide by this
6 Order and such provisions of the current CMO which have not been superseded
7 hereby. The Court will grant relief from the requirements in this Order only upon
8 motion and good cause shown.

9 Accordingly, **IT IS HEREBY ORDERED:**

10 1. Defendant Carter's (02) Unopposed Motion to Continue Trial Date and
11 Pre-Trial Conference and Reset Deadlines, **ECF No. 81**, is
12 **GRANTED**.

13 2. The Court finds, given defense counsel's need for time to review
14 discovery, prepare any pretrial motions, conduct investigation, and
15 prepare for trial, that failing to grant a continuance would result in a
16 miscarriage of justice and would deny defense counsel the reasonable
17 time necessary for effective preparation, taking into account the
18 exercise of due diligence. *See* 18 U.S.C. § 3161(h)(7)(B)(i), (iv). The
19 Court, therefore, finds the ends of justice served by granting a
20 continuance in this matter outweigh the best interest of the public and

1 Defendant and Co-Defendant in a speedy trial. *See* 18 U.S.C.
2 § 3161(h)(7)(A).

3 **3. Original CMO.** Counsel must review the provisions of the original
4 November 12, 2019 CMO, ECF No. 41, and abide by those procedures
5 which remain in full force and effect and are incorporated herein
6 except for the new compliance deadlines in the following Summary of
7 Amended Deadlines.

8 **4. Motion to Suppress**

9 Defendant Carter's (02) Motion to Suppress Evidence, ECF No. 70
10 and Motion to Suppress Statement of Defendant Carter (02), ECF
11 No. 71 are currently set for February 6, 2020 is **STRICKEN** and
12 **RESET to May 4, 2020 and May 5, 2020 at 9:00 A.M.** in
13 **RICHLAND.**

14 **5. Pretrial Conference**

15 **A.** The current pretrial conference date of February 6, 2020 is
16 **STRICKEN** and **RESET to May 28, 2020 at 9:00 A.M.** in
17 **RICHLAND.** At this hearing, the Court will hear **ALL** pretrial
18 motions that are noted for oral argument.

19 **B.** All Pretrial Conferences are scheduled to last no more than
20 **thirty (30) minutes**, with each side allotted **fifteen (15)**

1 **minutes** to present their own motions and resist motions by
 2 opposing counsel. If any party anticipates requiring longer than
 3 fifteen minutes, that party must notify the Courtroom Deputy at
 4 least seven (7) days prior to the hearing. **Any party who fails**
 5 **to provide this notice will be limited to fifteen (15) minutes.**

6. **Trial.** The current trial date of March 16, 2020 is **STRICKEN** and
 7 **RESET to June 22, 2020, at 9:00 A.M.** in **RICHLAND**. The **final**
 8 pretrial conference will begin at **8:30 A.M.**

9. Pursuant to 18 U.S.C. § 3161(h)(7)(B)(i) and (iv), the Court
 10 **DECLARES EXCLUDABLE from Speedy Trial Act calculations**
 11 the period from **January 29, 2020**, the date defense counsel moved to
 12 continue, through **June 22, 2020**, the new trial date, as the period of
 13 delay granted for adequate preparation by counsel.

14 **8. Summary of Deadlines**

15 USAO Expert Notice Defense Expert	April 3, 2020 April 17, 2020
16 All pretrial motions, including discovery motions, <i>Daubert</i> motions, and motions <i>in limine</i> , filed	April 17, 2020
17 Defendant Carter (02) Motion to Suppress Evidence, ECF No. 70 and Motion to Suppress Statement of Defendant Carter (02), ECF No. 71	May 4, 2020 and May 5, 2020 9:00 A.M. - RICHLAND
20 PRETRIAL CONFERENCE <i>Deadline for motions to continue trial</i>	May 28, 2020 9:00 A.M. - RICHLAND

1	CIs' identities and willingness to be interviewed disclosed to Defendants (if applicable)	May 29, 2020
2	Grand jury transcripts produced to Defendants Case Agent: CIs: Other Witnesses:	May 29, 2020 May 29, 2020 May 29, 2020
3	Exhibit lists filed and emailed to the Court	June 15, 2020
4	Witness lists filed and emailed to the Court	June 15, 2020
5	Trial briefs, jury instructions, verdict forms, and requested voir dire filed and emailed to the Court	June 15, 2020
6	Exhibit binders delivered to all parties and to the Court	June 15, 2020
7	Delivery of JERS-compatible digital evidence files to the Courtroom Deputy	June 15, 2020
8	Trial notices filed with the Court	June 17, 2020
9	Technology readiness meeting (in-person)	June 17, 2020
10	JURY TRIAL	June 22, 2020 9:00 A.M. - RICHLAND

11 **IT IS SO ORDERED.** The Clerk's Office is directed to enter this Order and
 12 provide copies to all counsel, the U.S. Probation Office, and the U.S. Marshals
 13 Service.

14 **DATED** this 4th day of February 2020.

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 SALVADOR MENDEZA, JR.
 United States District Judge